

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CRYSTALLEX INTERNATIONAL CORPORATION,

Plaintiff,

v.

Case No. 17-mc-151 (LPS)

BOLIVARIAN REPUBLIC OF VENEZUELA,

Defendant.

OI EUROPEAN GROUP B.V.,

Plaintiff,

v.

Case No. 19-mc-290 (LPS)

BOLIVARIAN REPUBLIC OF VENEZUELA,

Defendant.

ADDITIONAL JUDGMENT SUMMARY BY OI EUROPEAN GROUP B.V.

Dated: October 16, 2023

MORGAN, LEWIS & BOCKIUS LLP

Jody C. Barillare, Bar No. 5107
1201 N. Market Street, Suite 2201
Wilmington, DE 19801
Telephone: 302-574-3000
Facsimile: 302-574-3001
jody.barillare@morganlewis.com

- and -

Jonathan M. Albano
Christopher L. Carter
One Federal Street
Boston MA 02110
Telephone: 617-341-7700

SEQUOR LAW, P.A.
Edward H. Davis, Jr.
Fernando J. Menendez
1111 Brickell Avenue, Suite 1250
Miami, FL 33131

Facsimile: 617-341-7701
jonathan.albano@morganlewis.com
christopher.carter@morganlewis.com

Telephone: 305-372-8282
Facsimile: 305-372-8202
edavis@sequorlaw.com
fmenendez@sequorlaw.com

Attorneys for Plaintiff, OI European Group B.V.

Plaintiff, judgment creditor and conditional writ holder OI European Group B.V. (“OIEG”), submits this Additional Judgment Summary in response to this Court’s Memorandum Order entered on October 11, 2023. *See* D. Del., Case No. 17-mc-151 (“Crystalex”), D.I. 738 (the “October 11 Order”).¹

SUMMARY OF COMPLETED STEPS

Set forth below is the status of OIEG’s efforts to complete the seven steps outlined in this Court’s July 27, 2023 Memorandum Order. *See Crystalex*, D.I. 646 (the “July 27 Order”):

1. STEP 1 – “A creditor proves it is owed some debt by a Venezuela Party.”

Completed: March 10, 2015. OIEG is a Netherlands-incorporated company and an indirect, wholly-owned subsidiary of O-I Glass, Inc., a Delaware corporation headquartered in Perrysburg, Ohio. OIEG is the majority shareholder in two subsidiaries that each owned and operated valuable glass container factories in Venezuela. These factories were unlawfully expropriated by the Hugo Chávez regime in 2010. OIEG commenced arbitration proceedings against Venezuela with the International Centre for Settlement of Investment Disputes (“ICSID”) on September 7, 2011. *OI European Group B.V. v. Bolivarian Republic of Venezuela*, 2019 WL 2185040, at *2 (D.D.C. May 21, 2019). The ICSID tribunal issued an award on March 10, 2015, finding, *inter alia*, that Venezuela expropriated OIEG’s interests and was required to pay to OIEG \$372,461,982 in damages for the expropriation, and \$5,750,000 in costs and expenses, plus interest (the “OIEG Award”). *Id.* While the OIEG Award became “binding on the parties” under Article 53 of the ICSID Convention, *id.*, Venezuela delayed enforcement with a meritless “annulment” application. The ICSID annulment panel denied the application on December 6, 2018, reaffirmed the OIEG Award, and awarded additional damages. *Id.* at *2. A true and correct copy of the OIEG

¹ Capitalized but undefined terms used here shall be as defined in the October 11 Order.

Award and a certified English translation of the same are attached as Exhibit 1 and Exhibit 2 respectively, and a true and correct copy of the annulment decision is attached as Exhibit 3.

2. *STEP 2 – “The creditor enforces its award in a U.S. court and receives a judgment.”*

Completed: May 21, 2019. OIEG sought recognition of the OIEG Award by commencing a recognition proceeding pursuant to 22 U.S.C. § 1650a and Article 54 of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, in the DC District Court on July 27, 2016. (D.D.C., Case No. 16-cv-01533-ABJ, the “DC Proceeding”). On May 21, 2019, the DC District Court granted OIEG’s motion for summary judgment, confirmed the OIEG Award, and entered judgment (the “Judgment”) in favor of OIEG. *See Exhibit 4; see also OI European Group B.V.*, 2019 WL 2185040, at *2-3.²

3. *STEP 3 – “The creditor registers its judgment in the District of Delaware.”*

Completed: November 4, 2019. On November 1, 2019, the DC District Court authorized OIEG to pursue enforcement remedies against Venezuela pursuant to 28 U.S.C. §§ 1963 and 1610(c). *OI European Group B.V. v. Bolivarian Republic of Venezuela*, 419 F. Supp. 3d 51, 56 (D.D.C. 2019). OIEG registered the Judgment with the Delaware District Court pursuant to 28 U.S.C. § 1963 on November 4, 2019. D. Del., Case No. 19-mc-290 (“OIEG”), D.I. 1; *see also Exhibit 4.*

4. *STEP 4 – “The creditor moves in Delaware for a writ of attachment fieri facias (‘fi. fa’).”*

Completed: February 19, 2021. OIEG filed a renewed motion for a writ of attachment *fi. fa.* on February 19, 2021. *See OIEG*, D.I. 48 (attached as Exhibit 5).

² The total amount which is due and owing to OIEG under the Judgment as of August 14, 2023, including post-judgment interest, is no less than \$643,017,956.33. *See Crystalex*, D.I. 657.

5. STEP 5 – “*The creditor obtains a writ of attachment *fieri facias* which may be conditioned on subsequent events.*”

Completed: March 23, 2023. The Court granted OIEG’s renewed motion for a writ of attachment on the PDVH Shares on March 23, 2023, after finding that PDVSA was Venezuela’s alter ego. *OIEG*, D.I. 131, 132 (Opinion attached as Exhibit 6, and Order attached as Exhibit 7);³ *see also OI European Group B.V. v. Bolivarian Republic of Venezuela*, 2023 WL 2609248 (D. Del. Mar. 23, 2023), *aff’d*, 73 F. 4th 157 (3d Cir. 2023). The Court authorized the Clerk of the Court to affix its original signature and seal on the writ of attachment, but directed it not to issue (or serve) the writ until the requisite authorization was received from the Office of Foreign Assets Control (“OFAC”). *See Exhibit 7* at p. 2.

6. STEP 6 – “*The Clerk issues to the United States Marshals Service (‘Marshals’) the writ of attachment *fieri facias*.*”

Not Yet Completed. However, OIEG has taken the necessary steps to satisfy this next step upon further order or direction of the Court given recent OFAC guidance and licensing. The Court entered an order docketing OFAC License No. VENEZUELA-EO13884-202301057131-1 on May 5, 2023. *OIEG*, D.I. 147, at pp. 7-8 (the “OFAC License”). The OFAC License authorizes the Clerk of the Court and any Additional Judgment Creditor to “engage in transactions and activities ordinarily incident and necessary to the issuance and service of a writ of attachment *fieri facias* for any party that has been designated an ‘Additional Judgment Creditor’” under the Sale Procedures Order. *Id.* at p. 8. The conditions to OIEG’s conditional writ of attachment will be satisfied upon the designation by this Court of OIEG becoming an Additional Judgment Creditor.

³ As the Court previously noted, OIEG’s February 19, 2021 renewed motion is to be used for the date by which OIEG’s priority of attachment is established. *See* July 27 Order at p. 23.

7. STEP 7 – “The U.S. Marshals Service serves the creditor’s writ of attachment, perfecting the writ and attaching the shares of PDVH owned by PDVSA.”

Not Yet Completed.

CONCLUSION

As summarized above, OIEG has completed Step 1 through Step 5 and is positioned, given the OFAC License, to reach Step 6 as soon as OIEG is designated as an Additional Judgment Creditor by this Court. OIEG will amend and update this Additional Judgment Summary in accordance with the October 11 Order.

Dated: October 16, 2023

MORGAN, LEWIS & BOCKIUS LLP

/s/ Jody C. Barillare

Jody C. Barillare, Bar No. 5107
1201 N. Market Street, Suite 2201
Wilmington, DE 19801
Telephone: 302-574-3000
Facsimile: 302-574-3001
jody.barillare@morganlewis.com

- and -

Jonathan M. Albano (*pro hac vice*)
Christopher L. Carter (*pro hac vice*)
One Federal Street
Boston MA 02110
Telephone: 617-341-7700
Facsimile: 617-341-7701
jonathan.albano@morganlewis.com
christopher.carter@morganlewis.com

SEQUOR LAW, P.A.
Edward H. Davis, Jr. (*pro hac vice*)
Fernando J. Menendez (*pro hac vice*)
1111 Brickell Avenue, Suite 1250
Miami, FL 33131
Telephone: 305-372-8282
Facsimile: 305-372-8202
edavis@sequorlaw.com
fmenendez@sequorlaw.com

Attorneys for Plaintiff, OI European Group B.V.